IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 652 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

HARISHCHANDRA SINH GAMBHIR SINH

Appearance:

M/S THAKKAR ASSOC. for the Petitioner.

MR MUKESH H RATHOD for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 09/03/2004

ORAL JUDGEMENT

The petitioner is the original defendant of Regular Civil Suit No.602 of 1991, which is pending in the Court of Civil Judge (Junior Division), Bhavnagar. The said suit is filed by the respondents for a

declaration and permanent injunction. The case of the plaintiff is that his father was serving in the Gujarat State Road Transport Corporation and after his father's retirement, he was reappointed in the office of the defendant, on daily wages. That, according to the plaintiff, as per the policy of the Corporation, the case of the plaintiff was required to be considered for giving priority in appointment as the heirs of the ex-employees of the Corporation are required to be given such priority in appointment.

The trial court rejected the said application, against which an appeal was preferred by the respondents herein, by resorting to Order 43 of the Code of Civil Procedure.

The appellate court allowed the said appeal partly and the defendant-Corporation was directed to consider the plaintiff's case in the light of the observations made in the order as well as in the light of the provisions of Clauses 29 and 30 of the Settlement. The plaintiff was permitted to apply again to the Department for considering his case within the stipulated time. It is the aforesaid order, which is impugned in this revision.

It is not in dispute that the present revision is against an interlocutory order in the suit and in view of the amendment in Section 115 of the Code of Civil Procedure, this Civil Revision Application is accordingly rejected as not maintainable. It is clarified that it would be open for the petitioner to challenge the impugned order of the appellate court by filing appropriate proceedings under Article 227 of the Constitution of India. In order to enable the petitioner to take appropriate recourse in accordance with law, interim relief granted by this Court is ordered to be extended upto 15th April, 2004.

This Civil Revision Application is accordingly disposed of. Rule is discharged, with no order as to costs.

9th March, 2004 (P.B. Majmudar, J.)

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(apj)